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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/761,785	01/21/2004	Warren N. Root	WROOT.003A	3537
20995	7590	11/16/2004	EXAMINER	
KNOBBE MARTENS OLSON & BEAR LLP 2040 MAIN STREET FOURTEENTH FLOOR IRVINE, CA 92614			LEWIS, KIM M	
			ART UNIT	PAPER NUMBER
			3743	

DATE MAILED: 11/16/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/761,785

Applicant(s)

ROOT, WARREN N.

Examiner

Kim M. Lewis

Art Unit

3743

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-8 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 3/25/04.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☒ Other: Detailed Action.

DETAILED ACTION

Information Disclosure Statement

1. The information disclosure statement filed 3/25/04 has been received and made of record in the application file wrapper. Note the acknowledged form PTO-1449 enclosed herewith.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

4. Claims 1, 2 and 5-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 5,158,256 ("Gross").

As regards claims 1 and 2, Gross substantially discloses applicant's claimed invention. More specifically, Gross discloses a keyboard accessory (system) for supporting the forearms and hands of a user performing repetitive tasks, comprising a

Art Unit: 3743

support pad (elongate guide track 14), first and second cradles (support members 100), each cradle comprises a first portion to support the lower portion of the forearm of a user, the first portion resting upon the upper surface of the support pad; a second portion to support the hand of the user, and a retaining device to attach the cradle to the lower forearm of the user (col. 8, lines 3-12).

Gross fails to that the support pad has a low-friction upper surface and a retaining device. The examiner, however, contends that the addition of a low-friction upper surface, such as neoprene, to the guide track of Gross and the addition of a retaining device to maintain the user's hand in the support member would have been *prima facie* obvious to one having ordinary skill in the art. The applicant should note that neoprene wrist support members for use with keyboards are conventionally known.

As to the type of retaining device, (*i.e.*, a bracelet (claim 5) a hook and pile fastening system (claim 6)), the examiner contends that hook and loop material by itself or a straps comprising hook and loop fastening material is conventionally known, an the use of such to retain the user's hand in the support member would also have been *prima facie* obvious to one having ordinary skill in the art.

As regard claim 7, note the raised portion (bowed portion 102) positioned to engage the palm of the user.

As regards claim 8, Gross the method of reducing strain on the arms and shoulders of a user performing tasks such as typing and data entry is inherently practiced with use of the modified device of Gross as discussed in the rejection of claim 1 above.

Art Unit: 3743

5. Claims 3 and 4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gross in view of U.S. Patent Application Publication 2001/0009263 A1 ("Chou").

As regards claims 3 and 4, the modified device of Gross as discussed in the rejection of claim 1 above, fails to teach that the support pad is height adjustable with respect to the bottom surface and that the height is adjustable by rotating at least one wheel threaded onto a stud.

However, Chou discloses a wrist pad adjustable in height and hardness in order to accommodate various users. In view Chou, it would have been obvious to one having ordinary skill in the art to provide the modified device of Gross with a height adjustment mechanism in order to accommodate various users.


Although Chou fails to teach the specific type of adjustment system (*i.e.*, a rotating wheel, the examiner contends that, it would have been an obvious design choice to one having ordinary skill in the art to substitute any height adjustment mechanism for the height adjustment mechanism of Chou.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kim M. Lewis whose telephone number is (703) 308-1191. The examiner can normally be reached on Mondays to Thursdays from 5:30 am to 4:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Henry A. Bennett, can be reached on 703.308.0101. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 3743

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Kim M. Lewis
Primary Examiner
Art Unit 3743

kml
November 15, 2004